

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:) CHAPTER 13 CASE
)
DELILAH A. BUSCH,) CASE NO. 07-14958
)
DEBTOR.) HON. TIMOTHY A. BARNES

NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on Thursday, September 10, 2020, at 1:30 pm., I will appear before the Honorable Timothy A. Barnes, or any judge sitting in that judge's place, and present the **UNITED STATES TRUSTEE'S MOTION TO EXAMINE FEES PAID TO ATTORNEY PURSUANT TO 11 U.S.C. § 329(b) AND FOR OTHER RELIEF** a copy of which is attached and is served on you.

This motion will be presented and heard telephonically. No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must set up and use an account with Court Solutions, LLC. You can set up an account at www.Court-Solutions.com or by calling Court Solutions at (917) 746-7476.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

By: /S/ M. Gretchen Silver
M. Gretchen Silver, Attorney
OFFICE OF THE U.S. TRUSTEE
219 S. Dearborn Street
Chicago, IL 60604
(312) 353-5054

CERTIFICATE OF SERVICE

I, M. Gretchen Silver, an attorney, certify under penalty of perjury that I caused a copy of this notice, attached motion and proposed order to be serviced on each entity shown on the attached service list at the address shown and by the method indicated on August 31, 2020, before 5:00 p.m.

/s/M. Gretchen Silver

SERVICE LIST

Registrants Served Through the Court's Electronic Notice for Registrants:

- Robert J Adams RobertJAdams@jubileebk.net, bankruptcy714@gmail.com
- Darren L Besic dbesic@walinskilaw.com, notice@walinskilaw.com
- Marilyn O Marshall courtdocs@chi13.com
- William T Neary USTPRegion11.ES.ECF@usdoj.gov

Parties Served via First Class Mail

Delilah A. Busch
4012 S. Indiana Avenue
Unit 4N
Chicago, IL 60653

Delilah A. Busch
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IN RE:) CHAPTER 13 CASE
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DELILAH A. BUSCH,) CASE NO. 07-14958
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DEBTOR.) HON. TIMOTHY A. BARNES

**UNITED STATES TRUSTEE'S MOTION TO EXAMINE FEES
PAID TO ATTORNEY PURSUANT TO 11 U.S.C. § 329(b) AND FOR OTHER RELIEF**

Patrick S. Layng, the United States Trustee for the Northern District of Illinois (the “U.S. Trustee”), by and through his attorney, M. Gretchen Silver, hereby requests this Court, pursuant to 11 U.S.C. § 329 and Fed. R. Bankr. P. 2017, to examine the fees paid to attorney Robert J. Adams (“Adams”) in connection with this case and for other relief. In support of this request, the U.S. Trustee respectfully states to the Court:

Jurisdiction

1. The Court has jurisdiction to hear and determine this proceeding under 28 U.S.C. § 157(b)(2)(A) and IOP 15(a) and Local Rule 40.3.1 of the United States District Court for the Northern District of Illinois.

2. Movant is the U.S. Trustee for the Northern District of Illinois and is charged with supervising the administration of bankruptcy cases under 28 U.S.C. § 586(a)(3). The U.S. Trustee has standing to bring this Motion under 11 U.S.C. § 307.

3. Debtor commenced this case by filing a voluntary Chapter 13 petition on August 17, 2007. Debtor was represented by Robert J. Adams (“Adams”). On Schedule E, Debtor listed a priority claim for attorney fees owed to Adams, incurred August 3, 2007 (2 weeks pre-petition), in the amount of \$3,806.33. (*Dkt. 1, p. 13 of 36*).

4. Marilyn O. Marshall (“Trustee”) was appointed and served as the Chapter 13 Trustee.

5. On August 29, 2007, Adams filed an Application for Compensation for \$3500 in fees and \$306.33 of expenses (*Dkt. #12*) noting that the firm opted to use the Court’s Model Retention Agreement. On September 28, 2007, Debtor proposed a Modified Chapter 13 Plan (*Dkt. #13*). On November 14, 2007, the Court denied confirmation of the Debtor’s plan (*Dkt. # 25*) and concluded the hearing on the fee application (*Dkt. #24*). There is no order approving the application for fees.

6. On January 14, 2008, Trustee filed a motion to dismiss for unreasonable delay after confirmation was denied. (*Dkt. #27*) On January 16, 2008, the Court granted the motion to dismiss (*Dkt. 28*) and the case was closed on February 27, 2008 (*Dkt. #31*).

7. In late July, 2020, the Office of the United States Trustee learned that Adams sued Debtor in state court in 2015 (more than 7 years after the case closed) for the attorney fees claimed from the bankruptcy case and obtained a default judgment for \$6,716.69. Based on information and belief, Adams has pursued collection against the Debtor ever since. Attached as *Exhibit 1* is a copy of the complaint for breach of agreement and an order of default entered against the Debtor.

Relief Requested

8. Section 329(b) of the Bankruptcy Code authorizes this Court to examine the fees paid to an attorney in connection with a bankruptcy case and provides that, to the extent the amounts paid exceed the reasonable value of the services rendered, this Court can cancel any agreement between the debtor and counsel and order the return of any excessive payment.

9. Under the circumstances of this case, the U.S. Trustee believes it is appropriate for the Court to examine the reasonableness of the fees the Debtor paid to Adams, as the Debtor’s case

was dismissed after the court denied confirmation and never approved the fees for which Adams applied.

WHEREFORE, the U.S. Trustee respectfully asks the Court to enter an order scheduling a hearing to examine the fees paid to Robert J. Adams & Associates in this case under Fed. R. Bankr. P. 2017 and 11 U.S.C. § 329, directing Adams to appear at that hearing, and granting any other relief the Court deems just.

RESPECTFULLY SUBMITTED:
PATRICK S. LAYNG
UNITED STATES TRUSTEE

Dated: August 31, 2020

/s/ M. Gretchen Silver

M. Gretchen Silver, Trial Attorney
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